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25/11/99

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 29TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR. JUSTICE K.H.N. KURANGA

CIVIL REVISION PETITION NO. 922/1998

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1. Sri.G.P.Nagarajaiah s/o late  
Prasannaiah, Aged about 66 years.
2. G.Mahadevaiah s/o late Prasannaiah,  
Aged about 51 years.
3. Smt.Pramaleela d/o Late Prasannaiah,  
Aged about 46 years.

All are residing at House No.856,  
Navagraha Beedi, J.C.Extension,  
Kanakapura Town.

...PETITIONERS

(By Sri.K.R.Nagendra, Adv. for petrs.)

\* - VS - \*

Sri.G.P.Ganeshiah s/o late  
G.Prasannaiah, Aged about 49 years,  
Chikkamaduvadi Village, C/o Sri.Rama Clinic,  
M.G.Road, Kanakapura.

...RESPONDENT

\* \* \* \*

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Now residing at adjacent Iyengar  
Bekary, Bedadi-Byramangala road,  
HAROHALLI, Kanakapura Taluk.

\* \* \* \* \*

Civil Revision Petition is filed U/s 115 of  
CPC <sup>against</sup> ~~AGAINST~~ the order dated 5.2.1998 passed in MA  
No.25/1995 on the file of the Civil Judge, (Sr.Dm.)  
& JMFC, Ramanagaram, dismissing the appeal & confirming  
the order passed in O.S.No.372/94, dt.4.3.95 by the  
Munsiff & JMFC, Kanakapura.

This Civil Revision Petition coming on for  
ADMISSION this day, the court made the following:-

O R D E R

The petitioners are the plaintiffs in  
O.S.No.372/94 on the file of the Civil Judge Jr.Dn.,  
at Kanakapura. They have in this petition challenged  
the order dated 5.2.1998 passed by the learned Civil  
Judge, Sr.Dn., Ramanagaram in M.A.No.25/95 dismissing  
the appeal filed by the petitioners and confirming the  
order dated 4.3.1995 passed on I.A.No.II in the said  
suit by the learned Civil Judge, Jr.Dn.,

The petitioners filed the said suits against the respondent for permanent injunction. The trial Court granted ex parte injunction in favour of the petitioners in the first instance. Thereafter, after the appearance of the defendant the trial Court vacated the temporary injunction order granted in favour of the petitioners on 8.3.1985. This order of the trial Court was challenged by the petitioners in the appeal M.A.No.25/95 before the learned Civil Judge, Sr.Dn., Ramanagaram and the learned Civil Judge has dismissed the appeal.

The petitioners-plaintiffs are claiming the right over the suit schedule property on the basis of the Will executed by Deveeramma their mother. The defendant being the brother of the plaintiffs is also entitled to the share in the property. Therefore, the trial Court has vacated the injunction order on the ground injunction cannot be granted against co-owner. Further the Court below has observed that the petitioners are not in possession of the property in question, on the basis of the material produced by the plaintiffs. In the circumstances, the orders passed by the Courts

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below are just and proper and it is not a fit case  
for admission and the petition is liable to be  
dismissed and accordingly, it is dismissed.

Sd/-  
JUDGE

T.BY:BY

C.BY:

R.BY:

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Assistant Registrar  
High Court of Karnataka  
Bangalore-560 001

26/6/98

